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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,735	06/08/2001	Murray Edward Bruce Leighton	THOM-0014	9850

7590 01/12/2005
John W Caldwell
Woodcock Washburn Kurtz Mackiewicz & Norris
46th Floor
One Liberty Place
Philadelphia, PA 19103

EXAMINER

MEREC, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,735

Applicant(s)

LEIGHTON, MURRAY EDWARD
BRUCE

Examiner

Joseph C. Merek

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-14 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,5-14 and 16-20, 26, 27 is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/19/04 has been entered.

Claim Rejections - 35 USC § 112

The previous 112 rejection with respect to the tag being accessible from the exterior of the bag is hereby withdrawn. Upon further consideration the drawing show a bag which is accessible form outside the bag when the bag. Figs. 3 of the instant invention clearly shows that the tag is accessible from outside the bag. Moreover, as applicant has now amended the tag is accessible from the exterior of the bag when the bag is sealed closed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al (US 6,257,763) in view of Pezzana et al (US 4,481,669). Regarding claims 21, 26, and 27, Stolmeier et al as seen in Figs. 11-13, teaches the claimed invention where 101 is the tag but does not teach the tag being multi-layer or extending only over a portion of the seal length. Pezzana et al as seen in Figs. 5-7, teaches the bag being made from a laminate of several layers. It would have been obvious to employ the laminate of Pezzana et al in the bag of Stolmeier et al to provide a stronger bag or for air imperviousness as taught by Pezzana et al in Col. 1, lines 17-19. The tag 101 of Stolmeier et al is made of the same material as the bag. The tag 101 is M shaped in cross-section. The tapered part extends only over a portion of the bag. . The tag is sealed to the bag at seal lines 102. The inside legs are inside the flanges of the zipper and the outside legs are outside the flanges of the zipper. The inside legs can be lowered so they are withdrawn from within outside legs. The material of the bag has peel seal properties since it is a plastic. It is capable of being sealed in a peelable manner to other plastics. The tag is within the seal, i.e. the zipper since it is within the flanges of the seal. Regarding claim 22, the apex of the tuck has the line of weakness 175 as seen in Fig. 11 of Stolmeier et al. Regarding claim 23, the line of weakness is perforations. Regarding claim 24, see Fig. 7 of Pezzana et al where the three layers are shown. The middle layer is a strengthening layer. It will make the laminate stronger. Regarding claim 25, the middle layer as seen in Fig. 7 of Pezzana will provide heat insulating.

Allowable Subject Matter

Claims 2, 3, 5-14, 16-20, 26, and 27.

Response to Arguments

Applicant's arguments filed 1/8/04 have been fully considered but they are not persuasive. Applicant argues that the M shaped member of Stolmeier et al as modified by Pezzana et al is not a tag since it is an internal tamper evident feature. Applicant repeats the claim language but fails to specify what structure is lacking from the references. Applicant only states that the modified structure of Stolmeier et al is not a tag. The M shaped tamper feature of the modified bag of Stolmeier has all the structure that is required by the claim limitations. Therefore the structure meets the claim limitations.

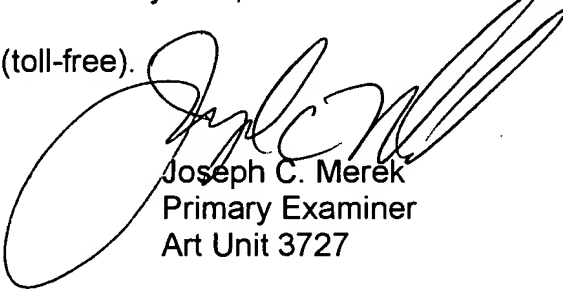
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is 571 272-4542. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merék
Primary Examiner
Art Unit 3727